

House Bill 883 (AS PASSED HOUSE AND SENATE)

By: Representatives Levitas of the 82nd, McCall of the 30th, England of the 108th, Roberts of the 154th, Burns of the 157th, and others

A BILL TO BE ENTITLED

AN ACT

To provide for a short title; to amend Code Section 26-2-27.1 of the Official Code of Georgia Annotated, relating to testing of specimens from food processing centers, so as to provide the Commissioner of Agriculture with certain authority regarding food safety plans; to mandate certain written safety plans; to provide for civil and criminal penalties; to provide for review of civil penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Sanitary Activity for Food-processing Enterprises (SAFE) Act."

SECTION 2.

Code Section 26-2-27.1 of the Official Code of Georgia Annotated, relating to written food safety plans, is amended by revising subsection (b) as follows:

"(b)(1)(A) In order to protect the public health, safety, and welfare and ensure compliance with this article, the Commissioner shall by rule or regulation establish requirements for regular testing of samples or specimens of foods and ingredients by food processing plants for the presence of poisonous or deleterious substances or other contaminants rendering such foods or ingredients injurious to health. Such rules or regulations shall identify the specific classes or types of food processing plants, foods, ingredients, and poisonous or deleterious substances or other contaminants that shall be subject to such testing requirements and the frequency with which such tests shall be performed by food processing plants.

(B) The Commissioner shall also promulgate rules and regulations establishing minimum standards and requirements for a written food safety plan, such as a hazard analysis critical control point plan, that may be submitted by an operator of a food processing plant to document and describe the procedures used at such plant to prevent

the presence of hazards such as poisonous or deleterious substances or other contaminants that would render finished foods or finished ingredients as manufactured at such plant injurious to health, including preventive controls, monitoring to ensure the effectiveness of such controls, and records of corrective actions, including actions taken in response to the presence of known hazards. If an operator of a food processing plant, in its discretion, submits to the department a written food safety plan for such plant and such plan conforms to rules and regulations promulgated for purposes of this subparagraph, then such food processing plant shall comply with the requirements of such written food safety plan, including, but not limited to, any test regimen provided by such plan, in lieu of complying with a test regimen established by rules or regulations promulgated by the Commissioner pursuant to subparagraph (A) of this paragraph.

(C)(i) The Commissioner shall impose a civil penalty for a violation of this subsection.

(ii) The department shall adopt rules and regulations establishing a schedule of civil penalties that shall be imposed under this subsection. Civil penalties imposed pursuant to this subsection shall not exceed \$5,000.00 for each violation; provided, however, that a food processing plant that knowingly fails to comply with the provisions of subparagraph (B) of this paragraph shall be punished by the imposition of a \$7,500.00 civil penalty. In addition to such civil penalty, within 30 days of the determination by the Commissioner that such violation has occurred, such food processing plant shall submit to the Commissioner a written plan pursuant to subparagraph (B) of this paragraph.

(iii) For purposes of this subsection, each day a violation continues after the period established for compliance by the Commissioner shall be considered a separate violation.

(iv) When a civil penalty is imposed under this subsection, such penalty shall be subject to review in the manner prescribed by Article 1 of Chapter 13 of Title 50, known as the 'Georgia Administrative Procedure Act.'

(2) In addition to any regular tests required pursuant to paragraph (1) of this subsection, the Commissioner may order any food processing plant to have samples or specimens of its foods and ingredients tested for the presence of any poisonous or deleterious substances or other contaminants whenever in his or her determination there are reasonable grounds to suspect that such foods or ingredients may be injurious to health."

SECTION 3.

Said Code section is further amended by revising subsections (e) and (f) as follows:

"(e)(1) Whenever any person or firm that operates a food processing plant in this state obtains information from testing of samples or specimens of finished foods or finished food ingredients as manufactured at such food processing plant which, based on a confirmed positive test result, indicates the presence of a substance that would cause a manufactured food bearing or containing the same to be adulterated within the meaning of paragraph (1) of Code Section 26-2-26, such person or firm shall report such test result to the department within 24 hours after obtaining such information.

(2) Any person who knowingly fails to make the report required by paragraph (1) of this subsection shall be guilty of a misdemeanor. The punishment provided for in this subsection shall be supplemental to any other applicable provisions of law.

(f) Records of the results of any tests required pursuant to this Code section shall be kept by a food processing plant and made available to the department for inspection for a period of not less than two years from the date the results were reported by the laboratory. Any person who knowingly violates this subsection shall be guilty of a misdemeanor. The punishment provided for in this subsection shall be supplemental to any other applicable provisions of law."

SECTION 4.

Said Code section is further amended by adding a new subsection to read as follows:

"(h) Any person who knowingly introduces into commerce finished foods or finished food ingredients as manufactured at a food processing plant knowing that it contains a substance that would cause a manufactured food bearing or containing the same to be adulterated within the meaning of paragraph (1) of Code Section 26-2-26 shall be guilty of a felony, and, upon conviction, shall be punished by imprisonment for not less than one nor more than 20 years, a fine not to exceed \$20,000.00, or both. The punishment provided for in this subsection shall be supplemental to any other applicable provisions of law."

SECTION 5.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.